

**TOWN OF ELSMERE
COUNCIL MEETING MINUTES
JULY 11, 2013
COUNCIL CHAMBERS
6:30 p.m.**

CALL TO ORDER: Mayor Steven Burg called the meeting to order at 6:30 p.m.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

MAYOR	STEVEN BURG	PRESENT
1 ST DISTRICT	JOHN JAREMCHUK, JR.	ABSENT/EXCUSED
2 ND DISTRICT	PATRICIA FRANTZ	PRESENT
3 RD DISTRICT	ROBERT KACPERSKI	PRESENT
4 TH DISTRICT	CHARLES MCKEWEN	PRESENT
5 TH DISTRICT	JOANN I. PERSONTI	PRESENT
6 TH DISTRICT	DEBORAH A. NORKAVAGE	PRESENT
Town Solicitor, Edward McNally – Present		
Town Manager, John Giles – Present		
Chief of Police, Laura Giles – Present		

PUBLIC COMMENT:

Elaina sister and spokesperson for Zygmunt Wojciechowski of 123 Bungalow Avenue, she stated she was present to try to get the Mayor and Council to waive a \$500.00 nuisance fee charged by the Police Department for calls made on the resident's brother who had been a problem since he moved in.

At this time there was a lengthy discussion regarding whether the council should waive these fees or whether the homeowner should be held responsible for the charges.

Chief Laura Giles suggested that the Mayor and Council consider reducing the fine to \$250.00.

ACTION: A motion was made by Councilwoman Norkavage to reduce the nuisance fine to \$250.00. The motion was seconded by Councilwoman Personti.

VOTE: 6-0 with 1 Absent All-in-Favor Motion carried

1st District – Absent, 2nd District – Yes, 3rd District – Yes, 4th District – Yes,
5th District – Yes, 6th District – Yes, Mayor – Yes

APPROVAL OF MINUTES:

Minutes of the June 8, 2013 Council Meeting

ACTION: A motion was made by Councilwoman Personti to approve the minutes of the June 8, 2013 Council Meeting with 1 correction, page 1 the time of the meeting should read 9:00am not 6:30pm. The motion was seconded by Councilman.

VOTE: 6-0 with 1 Absent All-in-Favor Motion carried

Minutes of the June 8, 2013 Executive Session

ACTION: A motion was made by Councilwoman Personti to approve the minutes of the June 8, 2013 Executive Session with no corrections. The motion was seconded by Councilman McKewen.

VOTE: 6-0 with 1 Absent All-in-Favor Motion carried

Minutes of the June 13, 2013 Council Meeting

ACTION: A motion was made by Councilwoman Personti to approve the minutes of the June 13, 2013 Council Meeting with no corrections. The motion was seconded by Councilwoman Frantz.

VOTE: 6-0 with 1 Absent All-in-Favor Motion carried

At this time Chief Laura Giles introduced Ben Wingate as one of the Seasonal Police Officers of the Department of Public Safety.

NEW BUSINESS:

Mayor Burg asked to move to New Business Item #6 on the Supplemental Agenda.

Consideration of a Tribute to Mr. Pete Grandell

ACTION: A motion was made by Councilwoman Personti to approve a Council Tribute to Mr. Peter Grandell. The motion was seconded by Councilman McKewen.

VOTE: 6-0 with 1 Absent All-in-Favor Motion carried

At this time Councilwoman Personti read the below Tribute:

Be it hereby known that the Mayor and each member of the Council of the Town of Elsmere joins Mayor Steve Burg in paying tribute to

Mr. Pete Grandell

On his 26th consecutive year serving as the Flag Bearer of the Grandell Family Independence Day Parade.

The Mayor and Council join Mayor Steve Burg in congratulating Mr. Pete Grandell, a 92 year old U.S. Marine, World War II veteran and longtime Elsmere Resident, who on July 04, 2013 kicked off his 26th consecutive July 4th parade. Joined by Mayor Burg and four generations of the Grandell family who traveled from Florida, Maryland, Pennsylvania and Delaware to be with him. Pete began his short in distance but long in tradition, annual celebration of the birth of this great nation symbolizing his love for his country and bringing those words he holds so dear "Semper Fi" to life.

The Mayor and Council extends their sincere appreciation to Mr. Grandell for his service to his country and the Town of Elsmere and hope that Mr. Grandell will continue to lead many more July 4th parades celebrating this great nation which he proudly served and protected

At this time Town Manager John Giles stated after the Tribute was written he discovered the following information that should have been included in the Tribute:

Mr. Grandell graduated from boot camp on December 7, 1941 the date of the Pearl Harbor bombing. He was discharged on Christmas Day 1945. All 6 of his children participate in the parade, and 9 grandchildren and their spouses, 1 great grandchild. Ages range from 2 to 92 years old.

OLD BUSINESS:

Consideration for Third and Final Reading of Ordinance 567.

ACTION: A motion was made by Councilwoman Personti to consider Ordinance 567 for Third and Final. The motion was seconded by Councilwoman Norkavage.

VOTE: 6-0 with 1 Absent All-in-Favor Motion carried

Consideration for Third and Final Reading of Ordinance 568.

ACTION: A motion was made by Councilwoman Personti to consider Ordinance 568 for Third and Final Reading. The motion was seconded by Councilwoman Norkavage.

VOTE: 6-0 with 1 Absent All-in-Favor Motion carried

NEW BUSINESS:

Consideration of Resolution 13-05.

ACTION: A motion was made by Councilwoman Norkavage to approve Resolution 13-05. The motion was seconded by Councilwoman Frantz.

VOTE: 6-0 with 1 Absent All-in-Favor Motion carried

1st District – Absent, 2nd District – Yes, 3rd District – Yes, 4th District – Yes, 5th District – Yes, 6th District – Yes, Mayor – No

Consideration for First and Second Reading of Ordinance 569.

ACTION: A motion was made by Councilman Kacperski to consider Ordinance 569 for Third and Final Reading. The motion was seconded by Councilwoman Frantz.

Councilman Kacperski stated that his thought that we would want this ordinance in place to potentially save money on the disposal of yard waste and wood products in the event of an emergency.

Councilwoman Norkavage stated that she has an issue that the Town Passed a law on Open Burning for safety and health reasons and to exempt ourselves from that Ordinance seems a little contradictory.

Councilwoman Personti stated that this seems like such an extreme circumstance that should the situation exist the Town could make that emergency decision.

Town Manager John Giles stated that he feels this is more of an ordinance which allows the Town to have an event with a bonfire and is not needed for emergencies.

VOTE: 2-4 with 1 Absent Motion Defeated

1st District – Absent, 2nd District – Yes, 3rd District – Yes, 4th District – No,
5th District – No, 6th District – No, Mayor – No

Consideration for First and Second Reading of Ordinance 570.

ACTION: A motion was made by Councilwoman Personti to Table Ordinance 570. The motion was seconded by Councilwoman Frantz.

VOTE: 6-0 with 1 Absent All-in-Favor Motion carried

Discussion of an agreement to be signed with the Delaware Department of Transportation (DelDOT) concerning an upcoming roadway maintenance project on the Kirkwood Hwy.

ACTION: A motion was made by Councilwoman Frantz to approve the amended agreement T200411701 with DelDOT regarding the repaving of a portion of South Union Street and SR.2. The motion was seconded by Councilman McKewen.

VOTE: 6-0 with 1 Absent All-in-Favor Motion carried

Discussion concerning the lease agreement with New Castle County concerning the Elsmere Library.

Town Manager John Giles stated that he stated the leases have been sent, however, New Castle County sent a voucher for a 3% increase even though Council approved a 5% increase in their lease, there has been discussion with the County regarding their lease and they do not want to pay anything in excess of a 3% increase.

Mayor Burg stated he is abstaining from any discussion on this topic because he is an employee of New Castle County.

Town Manager John Giles stated that he thinks the Town may want to consider imposing a 3% increase if the County would be willing to assign the Town their half of ownership of Vilone Park. He stated this would be \$1000.00 for the year, but for the total of 5 years the Town would lose \$17,000 less for the total term of the lease.

Councilwoman Frantz stated she thinks it is worth negotiating with them for 3%.

There was a consensus among Council to negotiate the rent at 3% and try to get the park issue resolved, anything less than 3% will come back to Council.

DEPARTMENTAL REPORTS:

Code Enforcement

Town Manager John Giles presented the written report.

There was a brief discussion confirming that all abatements and nuisance fines are converted to the new tax liens and if the Mayor and Council would again consider filing against properties which are vacant for past due balances on taxes or fees.

Mr. McNally stated that he thinks the Town should consider this but remember that once you have possession the Town is responsible for property and its liability once they own it.

Town Manager John Giles stated that he thinks that the Council should consider creating this new corporation for vacant properties which are already costing the Town time and money.

Councilwoman Personti asked if temporary pools require permits for construction.

Town Manager John Giles stated that there are no requirements for temporary pools under a certain height and such and that the Council at the time decided that it was difficult to regulate those things and not regulate yard ponds, etc.

Councilwoman Personti stated that she would like to sponsor or co-sponsor some sort of ordinance which regulates the containment of temporary pools to help prevent the possibility of drowning accidents. Maybe not the same requirements for a permanent pool but some sort of regulations.

Councilwoman Norkavage stated she would like to co-sponsor the ordinance.

Finance

Town Manager John Giles presented the written report. He stated that he needs council to make a motion to carry over the Long Term Planning Funds from the previous fiscal year to the current year.

ACTION: A motion was made by Councilwoman Frantz to carryover the remaining Long Term Planning Funds from FY12-13 to the FY 13-14 available funds. The motion was seconded by Mayor Burg.

Councilwoman Personti asked how this will affect the 50% portion of “surplus” budget dollars that will automatically budgeted to the contingency fund each year.

Town Manager John Giles stated that these funds do not impact the amount of that because they are rollover or cumulative accounts that continue to get larger similar to the contingency fund and therefore are not included in the “surplus” budget dollars.

Councilwoman Personti asked what the “Surplus” was at the end of the 12-13 Fiscal Year.

Finance Director Joseph Schulcz stated that the un-audited surplus sits at \$25,000.00 and is subject to change based on the Audit which is conducted in the fall.

Town Manager John Giles stated that the following funds will move to the current fiscal year should the motion be approved:

Capitol Depreciation	\$16,048.75
Police Pension Fund	\$0.00 (This was transferred to the Police Pension Fund)
Capitol Building Allocation	\$8,253.75
Infrastructure Maintenance	\$50,753.75
Contingency Fund	\$0.00 (This was transferred to the Contingency Fund)
Total	\$75,056.25

AMENDED MOTION: A motion was made by Councilwoman Frantz to amend her previous motion to include the total of \$75,056.25 to be moved from the FY 12-13 Budget under the Long Term Planning Department to the FY 13-14 Budget under the Long Term Planning. The motion was seconded by Councilwoman Norkavage.

AMENDED MOTION VOTE: 6-0 with 1 Absent All-in-Favor Motion carried

ORIGINAL VOTE: 6-0 with 1 Absent All-in-Favor Motion carried

Councilman Kacperski asked what the balance of the Contingency Fund was.

Finance Director Joseph Schulcz stated the current balance is \$136,743.00.

Public Safety

Chief Laura Giles presented the written report.

At this time there was a lengthy discussion on whether there was anything the Police Department could have done to assist the residents at 123 Bungalow Avenue to prevent their request that was heard earlier in the meeting.

Chief Laura Giles stated that there was nothing that the Town could have done differently because the homeowner did not want to press charges against his brother.

Councilman Kacperski asked if the funds from the Red Light Camera would be received Monthly, Bi-Monthly or Quarterly.

Chief Laura Giles stated that she had actually asked the same question of American Traffic Solutions and that she has marked her calendar for the 20th of the month to check if a payment is received.

Mayor Burg stated that he is happy to see that the officers are writing the violations for cell phone use.

Public Works

Town Manager John Giles presented the written report. He stated that the street sweeper was down again and that there seems to be some sort of transmission issue. He stated that the employee who is out on disability is looking at being out until at least October at this point.

Councilwoman Personti thanked the Town Manager and the Public Works Department for the abatement of 1215 Spruce Avenue.

Town Manager

Town Manager John Giles presented the written report. He stated that he has been meeting with the Chief and Fenwick Apartments, he has notified the complex that they will no longer be completing the bi-annual inspections where they will be given time to comply with violations and there will also be a new program where the police and code enforcement will be very aggressive in trying to clean up the neighborhood and the complex, and they will be receiving a violation on their rental license for not reporting that 15 of the units had incorrect tenants or that the tenants no longer resided there.

Mayor Burg asked if the Town Manager has any plans to schedule an enforcement campaign in any areas of concerns such as Fenwick Apartments any time in the future.

Town Manager John Giles stated that does not have one scheduled but will notify the Mayor and Council if that type of enforcement is scheduled to occur.

Mr. McNally stated that he has not yet had a chance to speak with the Attorney General's Office and that he will try to get back to that topic.

Town Manager John Giles stated that they Council received the list of registered vacant properties list because it was requested by Councilman Kacperski. He stated that the Artesian Water permit is almost ready to be issued and that there may be some waivers on the curb-to-curb replacement requirements in exchange for some potential water service work. He asked to schedule the fireworks for the Independence Day Celebration date for 2014 is Saturday, July 5, 2013, Council agreed. He discussed being approached by a group of residents regarding the potential of a Community Garden, he stated that they are requesting to do this in the tennis courts of Joseph Walling Park in raised gardens and that he will report back to the Mayor and Council if additional information becomes available.

ITEMS SUBMITTED BY THE MAYOR AND COUNCIL:

District 1 – None

District 2 – None

District 3 – None

District 4 – None

District 5 – Councilwoman Personti stated that she thought that the ordinance regarding satellite dishes regulated whether or not a dish could be placed on the front of the building, she asked if there were any members of Council who may be interested in potentially excluding the installation of a satellite on the front of the house.

Mayor Burg stated that he had satellite television when he first moved into Elsmere and that he didn't have a choice but to install his dish on the front of the house because he would not have been able to receive any signal unless it was there or on the roof.

Councilwoman Personti asked if the Town Manager would research if any other municipalities control where these satellite dishes can be placed.

Councilwoman Personti asked if the Town Manager was aware that there would be a slip-n-slide on the side of the building for the Elsmere Recreation Center would be there.

Town Manager John Giles stated that he had a conversation some time back regarding it but was not aware that today was the date it would be there.

Councilwoman Personti stated that she was thinking maybe it would have been available to any neighborhood kids because it was in a public portion of the property not the leased areas.

Mayor Burg stated that it was his understanding that the slip-n-slide was paid for by a parent of a child who attends the Recreation Center.

Councilwoman Frantz asked if they had to ask permission to place it on the property.

Town Manager John Giles stated that they do and that he knows that he had a conversation about it in the past and that it would be permitted for a day, but that it was for the use of their campers and not the public.

There was discussion regarding what services that the Recreation Center provides to the Town and that they was not aware of anything that they provide to the Town that is available to someone other than their campers.

Councilwoman Personti stated that because they are state funded she thinks that the Recreation Center should do something to give back to the Town, some sort of event like a scarecrow contest at Halloween or Easter Egg Hunt.

Town Manager John Giles stated that he would have a discussion with the director of the Recreation Center regarding their services and what is available to the youth of the Town and what is available to the public, He stated that he does however believe that the

Recreation still pays for the Elsmere Boxing League which is currently housed in Newport.

District 6 – None

Mayor – Mayor Burg stated that the State Senate tabled the collective bargaining bill and that it will be re-introduced in January to include Police Departments and Municipal Employees.

PUBLIC COMMENT:

Janet Wilson of 1320 Cypress Avenue stated that she has been to the Council regarding a dog biting her and her dog. She stated that she did file a police report, the owner has not paid for any of the costs for this and in addition her dog has now died and there is still nothing occurring regarding this matter.

Councilwoman Personti asked if this dog is still allowed to roam.

Ms. Wilson stated that she has seen the owner with the leash in his hand and the dog running without it.

Chief Laura Giles asked if she reported the incident to the SPCA.

Ms. Wilson stated that the SPCA informed her that they no longer handle dog bite complaints. She stated that the dog has now died from a tumor and that this gentleman has not given her any documents regarding his dog.

Town Manager John Giles stated that she will have to file a civil suit with Court 12 against the dog owner and that the Town will provide her with that information if necessary.

Mr. Andrew Favreau of 1301 Sycamore Avenue regarding the Community Garden, he asked that the Mayor and Council keep open minds regarding the requests and that he feels it will benefit the community.

ADJOURNMENT:

ACTION: A motion was made by Councilwoman Frantz to adjourn. The motion was seconded by Councilwoman Norkavage.

VOTE: 6-0 with 1 Absent All-in-Favor Motion carried

These minutes summarize agenda and other issues discussed at this Council Meeting. Votes are recorded accurately. The audio tape(s) of this meeting will be available at Town Hall for a period of two years from the date these minutes are approved. The audio tapes may be reviewed at Town Hall by appointment and in accordance with the Freedom of Information Act.

STEVEN E. BURG
MAYOR

JOANN I. PERSONTI
SECRETARY